

9904.415-60

48 CFR Ch. 99 (10-1-10 Edition)

the individual employee accounts between the end of the cost accounting period and the tax filing date for that period must be assigned to the cost accounting period in which the employee is awarded the stock or cash. Any portion of the stock or cash resulting from a contractor's contribution that is not awarded to employees or allocated to individual employee accounts by the tax filing date for that period, including any permissible extensions thereof, shall be assigned to a future cost accounting period or periods when the remaining portion of stock or cash has been awarded to employees and allocated to individual employee accounts. This stock shall retain the value established when it was originally purchased by or otherwise made available to the ESOP.

[57 FR 14153, Apr. 17, 1992, as amended at 73 FR 23965, May 1, 2008]

9904.415-60 Illustrations.

(a) Contractor A has a deferred compensation plan in which all cash awards are increased each year by an interest factor equivalent to the long-term borrowing rate of the contractor prevailing during each such year. The interest factor based on a variable long-term borrowing rate meets the criteria of 9904.415-50(d)(2). Consequently, the cost of deferred compensation for Contractor A shall be measured by the present value of the future benefits and shall be assigned to the cost accounting period in which the contractor initially incurs an obligation to compensate the employee. If the long-term borrowing rate for Contractor A was 9 percent at the close of the period to which the cost of deferred compensation was assignable, then that rate should be used to calculate the future benefit. Any adjustment in the cost of deferred compensation which results from a material change in the 9 percent rate in future applicable periods shall be made in each such future period or periods (see 9904.415-50(d)(2)).

(b) Contractor B made a deferred compensation award of \$10,000 to an employee on December 31, 1976, for services performed in 1976 to be paid in equal annual payments of \$2,000 starting at December 31, 1981. The terms of

the award do not provide for an interest factor to be included in the payment; consequently, according to provisions of 9904.415-50(d)(1), interest may not be included in the computation of the future benefits. The assignable cost for 1976 is computed as follows, assuming that the interest rate determined by the Secretary of the Treasury (pursuant to Public Law 92-41), 85 Stat. 97 at the time of the award is 8 percent and the conditions set forth in 9904.415-50(a) are met.

Year	Amount of future payment × discount rate 8-percent present value factor=present value
1981	\$2,000×0.6805=\$1,361
1982	2,000×.6301=1,260
1983	2,000×.5834=1,167
1984	2,000×.5402=1,080
1985	2,000×.5002=1,000
Assignable cost for 1976	5,868

(c) Contractor C awarded stock options for 1,000 shares of the contractor to key employees on December 31, 1976, under a deferred compensation plan requiring 2 years of additional service before the awards can be exercised. The facts and circumstances of the awards indicate that the deferred compensation applies only to the periods of future service. The market price of the stock was \$26 per share, the option price was \$22, and the interest rate established by the Secretary of the Treasury in effect at the time of award was 8 percent.

(1) In accordance with 9904.415-50(e)(2), the cost of the stock options is the amount by which the current value of the stock exceeds the option price multiplied by the number of shares awarded on the measurement date. Thus, the total cost of the stock options is 1,000 shares multiplied by the difference of the option price and the market price (\$26-22) or \$4,000.

(2) Under provisions of 9904.415-50(e)(3), the cost for stock options is assigned to each future cost accounting period in which employee service is required and is computed as follows:

	<i>Assign- able cost</i> ¹
Year of required service:	
1977	\$2,000

	<i>Assign- able cost</i> ¹
1978	2,000
Total amount of award	4,000

¹Note that this illustration assumes that the facts and circumstances of the award indicate that the award relates equally to each period of future service. Thus, the assignable cost was allocated on a pro-rata basis.

(d)(1) Contractor D has a deferred compensation plan that specifies that an employee receiving a cash award must remain with the company for 3 calendar years after the award in order to qualify and receive the award and the facts and circumstances indicate that the deferred compensation applies

only to the periods of future service. In accordance with 9904.415-50(d)(4), the cost of deferred compensation is assignable to the periods of future service. Thus, the amount of cost of deferred compensation to be assigned by Contractor D for each of the 3 years shall be the present value of the future benefits of the deferred compensation award calculated as of the end of each such period to which such cost is assigned.

(2) Under this plan, Contractor D made an award to an employee of \$3,000 to be paid at the end of the third year. The assignable cost for each of the 3 years is computed as follows:

Year ¹	Amount of future payment	Present value factor ² treas- ury rate ³	Assign- able cost for each year
1	\$1,000	× 0.8573 (8 pct for 2 yr)	= \$857.30
2	1,000	× 0.9302 (7.5 pct for 1 yr)	= 930.20
3	1,000	× 1.000 (8 pct for 0 yr)	= 1,000.00

¹Note that in accordance with the facts and circumstances of the award no deferred compensation is assignable to the period in which the award is made and that the award relates equally to each period of future service.

²Note that since the costs are measured at the end of each year of required service, the present value factors are based on the number of years from the year of assignment to the date of payment.

³Note that the prevailing Treasury rate changed from year 1 to year 2.

(e)(1) Contractor E has a deferred compensation plan that specifies that an employee receiving a cash award must remain with the company for 2 calendar years after the award in order to qualify and receive the award. Contractor E made an award of \$6,000 at the end of 1976 to an employee to be paid at the end of 1978. However, the employee voluntarily terminated his employment before the end of 1977. The facts and circumstances of the award indicate that \$2,000 of the award represents compensation for services rendered in the period of award (1976). The remaining portion of the award represents compensation for services to be rendered in future periods. The assignable cost for 1976, which was the only period to which costs were assigned before termination, was the present value of \$2,000, the amount of the award attributable to the services of that period. Thus, the cost assigned for 1976 was:

Amount of future payment × Discount
rate present value factor for 2 yr at 8
pct = Assignable cost
\$2,000 × 0.8573 = \$1,714.60

(2) According to provisions of 9904.415-50(d)(7), the amount of the forfeiture shall be the amount of the cost that was assigned to a prior period, plus interest compounded annually, from the year the cost was assigned to the year of forfeiture, using the same Treasury rate (see 9904.415-50(d)(5)) that was used as the discount rate at the time the cost was assigned. The IRS rate in effect at the date of award was 8 percent.

(3) The amount of the forfeiture is computed as follows:

Assignable cost × Discount rate future
value for 1 yr at 8 pct = Forfeiture
\$1,714.60 × 1.08 = \$1,851.77

(f) Contractor F has a non-leveraged ESOP. Under the contractor's plan, employees are awarded 5,000 shares of stock for the year ended December 31, 2007. On February 5, 2008, when the shares have a market value of \$10.00

each, the 5,000 shares are contributed to the ESOP and allocated to the individual employee accounts. The total measured and assigned deferred compensation cost for FY 2007 is \$50,000 ($5,000 \times \$10 = \$50,000$). The market value of the contractor's stock when awarded to the employees, whether higher or lower than the \$10.00 per share market value when the contractor's contribution was made to the ESOP, is irrelevant to the measurement of the contractor's ESOP costs.

(g) Contractor G has a leveraged ESOP. Under the contractor's plan, employees are awarded 10,000 shares of stock for the year ended December 31, 2007. On February 15, 2008, the contractor contributes \$780,000 in cash to the ESOP trust (ESOT) to satisfy the principal and interest payment on the ESOT loan for FY 2007, resulting in the bank releasing 9,000 shares of stock, and 1,000 shares of stock valued at \$80,000 to the ESOT, representing the balance of the 10,000 shares. On February 22, 2008, the ESOP allocates 10,000 shares to the individual employee accounts. The total measured and assigned deferred compensation cost for FY 2007 is \$840,000—the contractor's total contribution required to satisfy the deferred compensation obligation totaling 10,000 shares.

(h)(i) Contractor H has a leveraged ESOP. Under the contractor's plan, employees are awarded 8,000 shares of stock for the year ended December 31, 2007. On January 31, 2008, the contractor contributes \$500,000 in cash to the ESOT to satisfy the principal and interest payment on the ESOT loan for 2007, resulting in the bank releasing 10,000 shares of stock. On February 10, 2008, 8,000 shares are allocated to individual employee accounts, satisfying the deferred compensation obligation for 2007. The total measured deferred compensation cost for 2007 is \$500,000—the contractor's contribution for the cost accounting period. However, the total assignable deferred compensation cost for 2007 is \$400,000—the portion of the contribution that satisfies the 2007 deferred compensation obligation of 8,000 shares [$(8,000 \text{ shares} / 10,000 \text{ shares}) \times \$500,000 = \$400,000$]. The remaining \$100,000 of the contribution made in 2007 is assignable to future periods in

which the remaining 2,000 shares of stock are awarded to employees and allocated to individual employee accounts.

(2) At December 31, 2008, the employees are awarded 12,000 shares of stock. On January 31, 2009, Contractor H contributes \$500,000 in cash to the ESOT to satisfy the principal and interest payment on the ESOT loan for 2008, resulting in the bank releasing 10,000 shares of stock. On February 10, 2009, 12,000 shares are allocated to individual employee accounts satisfying the deferred compensation obligation for 2008. The total deferred compensation assignable to 2008 is \$600,000, the cost of the 12,000 shares awarded to employees and allocated to individual employee accounts for 2008. The cost of the award is comprised of the contractor's contribution for the current cost accounting period (10,000 shares at \$500,000) and the 2007 contribution carryover (2,000 shares at \$100,000).

(i) Contractor I has a leveraged ESOP. Under the contractor's plan, employees are awarded 10,000 shares for FY 2007, which ended December 31, 2007. On February 10, 2008, Contractor I contributes \$700,000 in cash to satisfy the principal and interest payment for the ESOP loan for FY 2007. This contribution results in the bank releasing 10,000 shares of stock. On March 1, 2008, the ESOP allocates the 10,000 shares to individual employee accounts satisfying the 2007 obligation. The 10,000 shares of stock must be assigned to FY 2007 (these shares cannot be assigned to 2008).

[57 FR 14153, Apr. 17, 1992, as amended at 73 FR 23965, May 1, 2008]

9904.415-61 Interpretation. [Reserved]

9904.415-62 Exemption.

None for this Standard.

9904.415-63 Effective date.

(a) This Standard 9904.415 is effective as of June 2, 2008.

(b) This Standard shall be followed by each contractor on or after the start of its next cost accounting period beginning after the receipt of a contract or subcontract to which this Standard is applicable.